IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.3.2005

CORAM:

THE HONOURABLE MR.MARKANDEY KATJU, THE CHIEF JUSTICE

AND

THE HONOURABLE MR. JUSTICE F.M.IBRAHIM KALIFULLA

W.A. No. 1330 of 2000

1. The Senior Personal Manager,
   The Disciplinary Authority,
   O/o. General Superintendent/
   Medical Neyveli Lignite Corpn. Hospitals,
   Neyveli.

2.JoestephenDomnic

..Appellants/
Respondents

Vs.

A.Veerasingam

..Respondent/
Petitioner

Prayer: Appeal under clause 15 of the Letters Patent against the order of this Court made in W.P.No.4549 of 2000 dated 26.4.2000.

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For Appellants :: Mr.N.A.K.Sarma

For Respondent :: No appearance.

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JUDGMENT

(Judgment of the Court was delivered by
The Hon'ble Chief Justice.)

This writ appeal has been filed against the impugned judgment of the learned single Judge dated 26.4.2000. We have heard Mr.N.A.K.Sarma, learned counsel for the first appellant Corporation. None appears for the respondent although the name of the respondent's counsel was printed in the cause list.

2. The writ petition was filed against a show cause notice. It is well settled that ordinarily no writ petition should be entertained against a show cause notice vide *Special Director v. Mohd. Ghulam Ghouse*, AIR 2004 SC 1467, *Executive Engineer, Bihar State Housing Board v. Ramesh K. Singh & Ors.* JT 1995(8) S.C. 331, etc.

3. A writ petition should not ordinarily be entertained against a show cause notice because a mere show cause notice does not give rise to any cause of action. It may be that on receiving a show cause notice the person concerned may give a reply/explanation, which may satisfy the authority concerned, who may then drop the proceedings. Hence no cause of action arises by merely giving a show cause notice and the person concerned can have no grievance by merely receiving a show cause notice. Hence if he challenges the show cause notice the writ petition will be premature and should be dismissed as such as held by the Supreme Court in the above cases.

4. In the present case only a show cause notice was challenged, which had been issued after the submission of the enquiry officer's report. The grievance of the writ petitioner was that in this show cause notice the first respondent/first appellant had indicated that he had agreed with the findings of the enquiry officer and proposed to impose punishment of dismissal and he called upon the writ petitioner to state his objections.

5. In our opinion, merely proposing the punishment

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does not give rise to any cause of action. It is only a tentative opinion, and the final order of punishment is passed only after receiving the reply of the employee concerned. In our opinion, it is only when the final punishment order is passed that a cause of action arises, and it is only at that stage that the employee concerned can challenge the proceedings by approaching the appropriate forum.

6. In our opinion, the writ petition itself was premature and should have been dismissed as such. Consequently we allow this writ appeal, set aside the impugned judgment and dismiss the writ petition. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ns.

To

The Senior Personal Manager,
The Disciplinary Authority,
O/o. General Superintendent/
Medical Neyveli Lignite Corpn. Hospitals,
Neyveli.

+1cc to Mr. N.A.K.Sarma,Advocate SR.No.14007

PV(CO)
kaa 31.03.05

W.A. No. 1330 of 2000
23.3.2005

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